

Message Text

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ACTION EUR-12

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TO SECSTATE WASHDC PRIORITY 2610
INFO AMEMBASSY PRIORITY

UNCLAS THE HAGUE 2579

E.O. 11652: NA
TAGS: PINS PINR GW NL
SUBJECT: EXTRADITION TO FRG OF RAF TERRORISTS

REF: THE HAGUE 462

1. THE DUTCH ARE ONE STEP CLOSER TO SENDING THREE WEST GERMAN RED ARMY FACTION (RAF) TERRORISTS BACK TO THE FRG. ON MAY 8 THE NETHERLANDS SUPREME COURT TURNED DOWN THE APPEALS OF KNUT FOLKERTS, CHRISTOPH WACKERNAGEL AND GERT SCHNEIDER AGAINST A LOWER COURT'S RULING THAT THEY WERE ELIGIBLE FOR EXTRADITION. THE MINISTER OF JUSTICE WILL DECIDE NEXT WEEK WHETHER TO HONOR FRG REQUESTS FOR THEIR EXTRADITION AND ALSO WHETHER TO GRANT THE TERRORISTS POLITICAL ASYLUM. ASSUMING THAT EXTRADITION WILL BE ORDERED, THE TERRORISTS ARE LIKELY TO MAKE A FINAL APPEAL AGAINST THE MINISTER'S DECISION TO THE COUNCIL OF STATE, THE HIGHEST ADMINISTRATIVE COURT. THE TERRORISTS ARE EXPECTED TO BE PERMITTED TO REMAIN IN THE NETHERLANDS DURING THE SEVERAL MONTHS WHILE THE APPEAL IS DEALT WITH BY THE COUNCIL OF STATE.

2. THERE IS A COMPLICATION REGARDING FOLKERTS. HE WAS CONVICTED OF MURDERING A DUTCH POLICE DETECTIVE IN SEPTEMBER 1977. WACKERNAGEL AND SCHNEIDER HAVE NOT YET BEEN TRIED IN THE
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NETHERLANDS. ACCORDING TO THE SUPREME COURT, THEY CAN BE EXTRADITED PRINCIPALLY FOR THE CRIME OF MEMBERSHIP IN A TERRORIST ORGANIZATION. YET IN FOLKERTS' CASE, THE COURT RULED THAT AN ELEMENT OF HIS INVOLVEMENT IN THE SCHLEYER KIDNAPPING AND MURDER WAS A POLITICAL OFFENSE UNDER DUTCH LAW. ACCORDING TO PRESS REPORTS, THE COURT SAID THAT FOLKERTS CANNOT STAND TRIAL IN WEST GERMANY FOR HIS ROLE IN ANY PART

OF THE SCHLEYER CASE. FOLKETS COULD STILL BE EXTRADITED FOR THE
MURDER OF CHIEF PUBLIC PROSECUTOR BUBACK IN APRIL 1977,
MEMBERSHIP IN A TERRORIST ORGANIZATION, AND AN ARMED RAID
ON A GUNSHOP IN FRANKFURT IN JULY 1977.

3. THUS FAR THERE HAS BEEN NO PRESS COMMENT ON THE COURT'S
DISTINGUISHING BETWEEN CRIMINAL AND POLITICAL OFFENSES IN
FOLKERT'S INVOLVEMENT WITH THE SCHLEYER CASE.
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